

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 968

Heard at Montreal, Wednesday, June 8, 1982

Concerning

CP EXPRESS [DIVISION OF CANADIAN PACIFIC EXPRESS & TRANSPORT LTD.]

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

DISPUTE:

The assessing of thirty demerits to employee R. Collins, Obico Terminal, Toronto, Ontario, for violation of Rule 11E (Deliberate disobedience of orders of authorized personnel).

JOINT STATEMENT OF ISSUE:

January 15th, 1982, employee R. Collins, Vehicleman, in the Toronto area was requested to deliver a shipment of seven cartons 175 lb., to a second story office building. Employee R. Collins felt the request was not according to the regulations. He was assessed thirty demerits for disobedience of orders of authorized personnel.

The Brotherhood felt the assessing of thirty demerits was excessive and the thirty demerits be expunged from his record.

The Company denied the Brotherhood's request.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) D. R. SMITH
DIRECTOR, INDUSTRIAL, RELATIONS, PERSONNEL & ADMINISTRATION

There appeared on behalf of the Company:

D. R. Smith – Director, Industrial Relations, Toronto
B. D. Neill – Manager, Labour Relations, Toronto
R. A. Colquhoun – Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

J. J. Boyce – General Chairman, Toronto
J. Crabb – Vice-General Chairman, Toronto

AWARD OF THE ARBITRATOR

There is no doubt that the grievor did refuse the direct, and proper, order of a Supervisor. He had no justification for doing so, and was properly subject to discipline on that account.

The matter began when the grievor, a Vehicleman, refused to make a delivery of some seven parcels, weighing twenty-five pounds each, to premises located on the second floor of a building. There was no elevator and no one to help, and the grievor was in a hurry. He did not deliver the parcels. He should have done so. Later, he got some vague and apparently incorrect advice from another employee to the effect that it was a "two-man delivery", but the grievor himself did not think that at the time. He just didn't do his job.

Subsequently, when he had returned to the terminal, the grievor was instructed first by a Supervisor and then by a Manager to return and perform the delivery. He refused to do so, and persisted in his refusal when asked if he was refusing a direct order. The grievor had no valid excuse at the time, and at his investigation added only that "I have had a few personal problems lately and I guess I just wasn't thinking at the time".

Clearly, the grievor was insubordinate, and was subject to discipline on that account. While the grievor had no justification for his action, I think it must also be said that he does not appear to have acted out of any sort of personal animosity, or that he was deliberately seeking to undermine managerial authority. In my view, having regard to other cases of insubordination or related conduct decided in this office (although there are no precise criteria for assessing any particular number of demerits), it is my view that the assessment of thirty demerits was excessive. A penalty of twenty demerits might, I think, properly have been imposed.

For the foregoing reasons, it is my award that the assessment of thirty demerits be set aside, and one of twenty demerits be substituted therefor. The grievance is allowed to that extent.

(signed) J. F. W. WEATHERILL
ARBITRATOR